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GENERAL STATUTES

OF THE

STATE OF MINNESOTA.

PREPARED BY THE COMMISSIONERS APPOINTED TO REVISE
THE STATUTES OF THE STATE, BY ACT OF THE
LEGISLATURE, PASSED FEBRUARY 17, 1863.

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CHAPTER XLIII.

USES AND TRUSTS.

1 SECTION 1. Uses and trusts, except as authorized and
 2 modified in this chapter, are abolished; and every estate C. S. P. 382, Sect. 1. **C 32**
 3 and interest in lands shall be deemed a legal right, cogniza-
 4 ble as such in the courts of law, except when otherwise pro-
 5 vided by statute.

1 SECT. 2. Every estate which is now held as a use, exe- C. S. P. 382, Sect. 2.
 2 cuted under the laws, as they formerly existed, is confirmed
 3 as a legal estate.

1 SECT. 3. Every person who, by virtue of any grant, as-
 2 signment, or devise, is entitled to the actual possession of C. S. P. 382, Sect. 3
 3 lands, and the receipt of the rents and profits thereof, in
 4 law or equity, shall be deemed to have a legal estate there-
 5 in, of the same quality and duration, and subject to the
 6 same conditions as his beneficial interest.

1 SECT. 4. The preceding section shall not divest the es-
 2 tate of any trustees in any existing trust, where the title of C. S. P. 382, Sect. 4
 3 such trustees is not merely nominal, but is connected with
 4 some power of actual disposition, or management, in rela-
 5 tion to the lands which are the subject of the trust.

1 SECT. 5. Every disposition of lands, whether by deed
 2 or devise, except as otherwise provided in this chapter, C. S. P. 382, Sect. 5.
 3 shall be made directly to the person in whom the right to
 4 the possession and profits is intended to be vested, and not
 5 to any other, to the use of, or in trust for such person; and
 6 if made to one or more persons in trust for, or to the use
 7 of another, no estate or interest, legal or equitable, shall
 8 vest in the trustee.

1 SECT. 6. The preceding sections of this chapter shall
 2 not extend to trusts arising or resulting by implication of C. S. P. 382, Sect. 6.
 3 law; nor be construed to prevent, or affect, the creation of
 4 such express trusts as are hereinafter authorized and de-
 5 fined.

1 SECT. 7. When a grant for a valuable consideration is
 2 made to one person, and the consideration therefor is paid C. S. P. 382, Sect. 7.
 3 by another, no use, or trust, shall result in favor of the

4 person by whom such payment is made; but the title shall
5 vest in the person named as the alienee, in such conveyance,
6 subject only to the provisions of the next section.

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C. S. p. 382, Sect. 8.
Amended.

1 SECT. 8. Every such conveyance shall be presumed
2 fraudulent as against the creditors at that time of the per-
3 son paying the consideration; and when a fraudulent intent
4 is not disproved, a trust shall result in favor of such credit-
5 ors, to the extent that may be necessary to satisfy their just
6 demands.

C. S. p. 382, Sect. 9.
Amended.

1 SECT. 9. The preceding seventh section shall not ex-
2 tend to cases where the alienee named in the conveyance,
3 has taken the same as an absolute conveyance, in his own
4 name, without the knowledge, or consent, of the person
5 paying the consideration; or when such alienee, in viola-
6 tion of some trust, has purchased the lands so conveyed,
7 with moneys belonging to another person.

C. S. p. 382, Sect. 10.

1 SECT. 10. No implied or resulting trust shall be alleged,
2 or established, to defeat, or prejudice, the title of a pur-
3 chaser for a valuable consideration, and without notice of
4 such trust.

C. S. p. 382, Sect. 11.

1 SECT. 11. Express trusts may be created for any, or
2 either, of the following purposes:
3 *First.*—To sell lands for the benefit of creditors.
4 *Second.*—To sell, mortgage, or lease lands, for the bene-
5 fit of legatees, or for the purpose of satisfying any charge
6 thereon.
7 *Third.*—To receive the rents and profits of lands, and
8 apply them to the use of any person, during the life of such
9 person, or for any shorter term, subject to the rules pre-
10 scribed in the last preceding chapter.
11 *Fourth.*—To receive the rents and profits of lands, and
12 to accumulate the same, for either of the purposes, and
13 within the limits prescribed in chapter forty-five.

C. S. p. 383, Sect. 12.

1 SECT. 12. A devise of lands to executors or other trus-
2 tees, to be sold or mortgaged when such trustees are not
3 also empowered to receive the rents and profits, shall vest
4 no estate in the trustees; but the trust shall be valid as a
5 power, and the lands shall descend to their heirs, or pass
6 to the devisees of the testator, subject to the execution of
7 the power.

C. S. p. 383, Sect. 13.

1 SECT. 13. When a trust is created to receive the rents
2 and profits of lands, and no valid direction for accumulation
3 is given, the surplus of such rents and profits beyond the
4 sum that is necessary for the education and support of the

5 person for whose benefit the trust is created, shall be liable
6 in equity to the claims of the creditors of such person, in
7 the same manner as other personal property which cannot
8 be reached by an execution at law.

1 SECT. 14. When an express trust is treated for any pur-
2 pose, not enumerated in the preceding sections of this chap- C. S. p. 383, Sect. 14.
3 ter, no estate shall vest in the trustees, but the trust, if di-
4 recting or authorizing the performance of any act which may
5 be lawfully performed under a power, shall be valid as a
6 power in trust, subject to the provisions in relation to such
7 powers contained in the next succeeding chapter. c 32

1 SECT. 15. In every case where the trust is valid as a
2 power, the land to which the trust relates shall remain in, C. S. p. 383, Sect. 15.
3 or descend to, the persons otherwise entitled, subject to the
4 execution of the trust as a power.

1 SECT. 16. Every express trust valid as such in its crea-
2 tion, except as herein otherwise provided, shall vest the C. S. p. 383, Sect. 16.
3 whole estate in the trustees, in law and in equity, subject
4 only to the execution of the trust; and the person for whose
5 benefit the trust was created, shall take no estate or interest
6 in the lands, but may enforce the performance of the trust
7 in equity.

1 SECT. 17. The preceding section shall not prevent any
2 person creating a trust, from declaring to whom the lands C. S. p. 383, Sect. 17.
3 to which the trust relates, shall belong, in the event of the
4 failure or termination of the trust; nor shall it prevent him
5 from granting or devising such lands subject to the execu-
6 tion of the trust; and every such grantee shall have a legal
7 estate in the lands as against all persons except the trustees
8 and those lawfully claiming under them.

1 SECT. 18. When an express trust is created, every es-
2 tate and interest not embraced in the trust, and not other- C. S. p. 383, Sect. 18.
3 wise disposed of, shall remain in or revert to the person
4 creating the trust, or his heirs, as a legal estate.

1 SECT. 19. No person beneficially interested in a trust
2 for the receipt of rents and profits of the lands, can assign, C. S. p. 383, Sect. 19.
3 or in any manner dispose of such interest: but the rights
4 and interest of every person for whose benefit a trust for
5 the payment of a sum in gross, is created, are assignable.

1 SECT. 20. When an express trust is created, but is not C. S. p. 383, Sect. 20.
2 contained or declared in the conveyance to the trustees,
3 such conveyance shall be deemed absolute as against the
4 subsequent creditors of the trustees not having notice of the

5 trust, and as against purchasers from such trustees, without
6 notice, and for a valuable consideration.

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C. S. p. 384, Sect. 21.

1 SECT. 21. When the trust is expressed in the instru-
2 ment creating the estate, every sale, conveyance, or other
3 act of the trustees in contravention of the trust, shall be ab-
4 solutely void.

C. S. p. 384, Sect. 22.

1 SECT. 22. No person who actually, and in good faith
2 makes any payment to a trustee, which the trustee as such
3 is authorized to receive, shall be responsible for the proper
4 application thereof, according to the trust; nor shall any
5 right or title derived by such person from the trustee, in
6 consideration of such payment, be impeached or called in
7 question in consequence of any misapplication of such pay-
8 ment by the trustee.

C. S. p. 384, Sect. 23.

1 SECT. 23. When the purposes for which an express
2 trust is created, cease, the estate of the trustee shall also
3 cease.

C. S. p. 384, Sect. 24.

1 SECT. 24. Upon the death of the surviving trustee of an
2 express trust, the trust estate shall not descend to his heirs,
3 nor pass to his personal representatives; but the trust, if
4 then unexecuted, shall vest in the district court, with all
5 the powers and duties of the original trustees, and shall be
6 executed by some person appointed for that purpose, under
7 the direction of the court.

C. S. p. 384, Sect. 25.

1 SECT. 25. Upon the petition of any trustee of an ex-
2 press trust, the district court may accept his resignation
3 and discharge him from the trust under such regulations as
4 shall be established by the court for that purpose, and upon
5 such terms as the rights and interests of the person interes-
6 ted in the execution of the trust require.

C. S. p. 384, Sect. 26.
Amended.

1 SECT. 26. Upon the complaint of any person interested
2 in the execution of an express trust, and under such regula-
3 tions as shall be established by the court for that purpose,
4 the district court may remove any trustee who has violated
5 or threatened to violate his trust, or who is insolvent, or
6 whose insolvency is apprehended, or who, for any other
7 cause, is deemed an unsuitable person to execute the trust.

C. S. p. 384, Sect. 27.

1 SECT. 27. The district court has full powers to appoint
2 a new trustee in the place of a trustee resigned or removed;
3 and when in consequence of such resignation or removal,
4 there is no acting trustee, the court, in its discretion, may
5 appoint new trustees, or cause the trust to be executed by
6 one of its officers under its direction.